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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,811	11/20/2001	Nick Steele	17357.2.1.2	8011
22913	7590	07/14/2009		
Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			EXAMINER WORJLOH, JALATEE	
			ART UNIT 3685	PAPER NUMBER
			MAIL DATE 07/14/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/988,811	Applicant(s) STEELE ET AL.	
	Examiner Jalatee Worjloh	Art Unit 3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 60-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4-27-09, 5-21-09, and 6-23-09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 27, 2009 has been entered.
2. Claims 60-87 are pending.

Response to Arguments

3. Applicant's arguments filed April 27, 2009 have been fully considered but they are not persuasive.
4. As per the 35 USC 112 rejection, Applicants argue that "it is readily apparent that steps for which no performing entity is recited could be performed by any entity and therefore no clarification is needed".

However, the Examiner respectfully disagrees. Notice, at least claim 60 recites "accessing the information account to retrieve a payment identifier and providing the payment identifier to the vendor server to complete the transaction", if "any entity" could perform this step then it would be indefinite. For instance, if the vendor performs that step then the vendor would be "providing the payment identifier" to itself.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 60-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claims 60, 70, and 77 recite “accessing the information account to retrieve a payment identifier and providing the payment identifier to the vendor server to complete the transaction”; however, it is unclear who accesses the information account. Is it the client device or the vendor?

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 60-64, 66-69 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2009/0157531 to Bui.

Referring to claim 60, Bui discloses receiving an instruction from a consumer via a thin client device to perform a transaction, interacting with a vendor server to request the transaction, receiving authorization by a central data repository from the thin client device for the vendor server to access an information account associated with a consumer and maintained in a central data repository and accessible via a distributed network, the information account comprising a plurality of consumer information elements accessible and modifiable by the consumer; and accessing the information account to retrieve a payment identifier and providing the payment

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identifier to the vendor server to complete the transaction (see Fig. 2B and related text, figures 4E, 4F, 4G, paragraphs [0054] and [0055]).

Referring to claim 61, Bui discloses receiving consumer preferences for the transaction from the thin client device, and wherein interacting with the vendor server to request the transaction comprises communicating the consumer preferences to the vendor server (see paragraph [0038]).

Referring to claim 62, Bui discloses retrieving consumer preferences for the transaction from the information account; and wherein interacting with the vendor server to request the transaction further comprises communicating the consumer preferences to the vendor server (see paragraph [0038]).

Referring to claim 63, Bui discloses the method wherein the instruction from the thin client device further comprises authentication information; and wherein the method further comprises the step of authenticating the consumer based on the authentication information prior to interacting with the vendor database on behalf of the consumer (see paragraph [0037] and Fig. 2B).

Referring to claim 64, Bui discloses wherein the authentication information comprises consumer authentication information; and wherein authenticating the consumer comprises the verifying the consumer authentication information (see paragraph [0037]).

Referring to claim 66, Bui discloses wherein the transaction involves a vendor providing a product or service to the consumer (Fig. 2B).

Referring to claim 67, Bui discloses the method wherein the transaction involves receiving at least one data file from the vendor server and storing the data file in the information

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account (see paragraph [0064] and Fig. 4D – receives and stores at least the acknowledgement information).

Referring to claim 68, Bui discloses maintaining the information account in a central data repository accessible via the distributed network on behalf of the consumer (see paragraphs [Fig. 2B).

Referring to claim 69, Bui discloses receiving an acknowledgement from the vendor server indicating that the transaction has been completed and storing the acknowledgment in the information account (see paragraphs [0064], [0065] & Fig. 4D).

Claims 70-73, 75-82, and 84-87 are rejected on the same rationale as claims 60-69 above.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 65, 74, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bui as applied to claims 60 and 70 above, and further in view of U.S. Publication No. 2006/0229944 to Walker et al. (“Walker”).

Referring to claim 65, Bui discloses the authentication information includes identifying information such as user name and password and verifying the user based on at least the user name and password (see paragraph [0037]). The sole difference between Bui and the claimed subject matter is that Bui does not disclose the authentication information includes equipment identifier. Walker discloses authentication information includes an equipment identifier that

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uniquely identifies the thin client device, and wherein authenticating the consumer comprises the step of verifying the equipment identifier (0157, device identifier). Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function but in the very combination itself-that is in the substitution of the user name and password of Bui for the device identifier of Walker. Thus, the simple substitution of one known element for another producing a predictable result renders the claim obvious.

Claims 74 and 83 are rejected on the same rationale as claim 65 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 571-272-6714. The examiner can normally be reached on Monday - Friday 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt II can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jalatee Worjloh/
Primary Examiner, Art Unit 3685